**THE HON'BLE SRI JUSTICE BILAL NAZKI**
**AND**
**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION No.20641 of 2004**

Date: 08-11-2006.

Between :

B.Siva Sankara Rao.

.....Petitioner

And

The High Court of A.P., rep. by its Registrar (Administration).

.....Respondent.

**THE HON'BLE SRI JUSTICE BILAL NAZKI**
**AND**
**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO**

**WRIT PETITION No.20641 of 2004**

**ORDER:** (Per Hon'ble Sri Justice Bilal Nazki)

Heard learned counsel for the parties. Counter affidavit has been filed.

The petitioner wants his date of birth to be changed to 29th March 1959, whereas his recorded date of birth in the Service Records is 10th April 1957, on the ground that his date of birth initially in the school, had been wrongly recorded. He made a representation to the High Court after he got appointed as a District Judge. This representation was rejected by the High Court by an order dated 13.11.1997. He filed a writ petition against the rejection of his representation being writ petition No.3683 of 1998, which was disposed of on 23.07.1998. The High Court directed that the matter be placed before the

Administrative Committee of the High Court and the record which had been placed before the Court by the petitioner be also placed before the Committee.

The contention of learned counsel for petitioner is that his date of birth in the Service Register was for the first time entered on 20th of March 1998 and the proceedings of the High Court were dated 13.11.1997 i.e. before the entry in the Register. The petitioner wants an enquiry to be conducted and the material he placed before the Court has to be taken into consideration in such an enquiry to come to a conclusion as to what is his correct date of birth.

We are afraid that this is not the import of the Andhra Pradesh Public Employment (Recording & Alteration of Date of Birth) Rules, 1984 (hereinafter referred to as 'the Rules') and no employer is obliged to conduct an enquiry to come to a conclusion as to what is the correct date of birth of a person who enters into Public Service. The petitioner, while offering himself as a candidate for the post of a District Judge, declared his date of birth as 10.04.1957. Then, even after entry into service, he declared his date of birth to be 10.04.1957, but he only said that it was without prejudice to his rights, which may accrue out of the representation made by him. The petitioner entered into service in the year 1996. Even if

his date of birth is to be taken as 29.03.1959, he was 37 year old at that time and if his recorded date of birth is taken into consideration as 10.04.1957, then he was aged 39 years. For 37/39 years, it never dawn on the petitioner that his date of birth had been wrongly recorded in his school records. Not even at the time when he sought appointment in the judiciary, it dawn on him that his date of birth was incorrectly recorded. Only after getting into service, he realized that his date of birth had been wrongly recorded in the school records. In a recent order in writ petition No.14084 of 2006, dated 24th October 2006, this Court interpreted the Rules and came to the conclusion that once the date of birth is recorded in service records on the basis of a school record, it can never be changed in terms of Sub-rule (5) of Rule 2 of the Rules. It can only be changed for any clerical mistakes. Relevant paragraph of the order is reproduced hereunder—

> "That once the date of birth is recorded on the basis of the school records or any proof produced at the time of entering into service, shall be final and no variation of date of birth in the school records for any reason shall be relevant for the purpose of service. Therefore, what Sub-rule (5) of Rule 2 of the Rules contemplates is that variation of date of birth in the school records, for any reason, cannot be made except in case of bona fide clerical error under the orders of the Government.

> Therefore, if the date of birth of the petitioner is taken to be 12.09.1964 and not 12.10.1963, it will amount to changing the date of birth recorded in the school records, which cannot be permitted in view of Sub-rule (5) of Rule 2 of the Rules. We find no merit in the writ petition and the same deserves to be dismissed".

For these reasons, we do not find merit in this writ petition, which is accordingly dismissed. No costs.

_____

(BILAL NAZKI,
J)

_____

(NOOTY RAMAMOHANA RAO, J)

8th November 2006

ajr